

REMARKS

This amendment is being filed with the accompanying RCE (filed after a Notice of Appeal with a return postcard stamped November 24, 2003), and is offered in response to the Office Action of May 21, 2003.

The Advisory Action of November 24, 2003 has been considered in the preparation of the present amendment.

In response to the objection to the drawings under 37 C.F.R. §1.83(a), the objection to the specification and the rejections under 35 U.S.C. §112, first and second paragraphs (numbered paragraphs 1-6 of the Office Action), the Applicant has amended Claim 1 to clarify that the segments are “sealed ... thereby forming a seal” and that the seal provides “a frangible connection” and amended Claims 3 and 4 to be consistent therewith. Further, in response to numbered paragraph 4 of the Office Action, the Applicant notes that Figure 2, element 48 is a peel seal (see page 6, line 12 of the specification), and that the presently pending claims are drawn to the embodiment of Figures 1-3 (see Amendment dated January 3, 2002 in response to the Restriction Requirement of December 3, 2001).

The Office Action rejected Claim 1 under 35 U.S.C. §102(b) as anticipated by the Thompson reference (U.S. Patent No. 5,224,779). However, the Thompson reference does not disclose the flanges of the presently claimed invention wherein the interlocking member is proximate to the distal end of the flange and the distal end is free of attachment to the wall (see amendments to Claim 1 above). This is not a minor matter as the configuration of the Thompson reference would not allow for the use of a slider.

The Office Action rejected Claim 1 under 35 U.S.C. §102(e) as being anticipated by the Johnson reference. Again, the Johnson references discloses no flanges wherein the interlocking

member is proximate to the distal end of the flange and the distal end is free of attachment to the wall (see amendments to Claim 1 above) as recited in the presently pending claims.

The Office Action rejected Claims 1-4 under 35 U.S.C. §102(e) as anticipated by the Tilman reference (U.S. Patent No. 6,412,254). It appears from Figure 4 that “first closed edge 18” of Figure 2 is created by folding the web, rather than by a seal, as is recited in the presently pending claims.

The Office Action rejected Claims 1-4 under 35 U.S.C. §103(a) as obvious over the Tilman reference in view of the Thomas reference (U.S. Patent No. 5,713,669). As the “first closed edge 18” of Figure 2 of the Tilman reference is created by folding the web, rather than by a seal, it is respectfully submitted that the manufacturing processes of the Tilman and Thomas references are completely different and that while these references may appear to have somewhat similar individual components, these references have widely different configurations and their combination with regard to certain features would inevitably result in conflicts of purpose.

The Office Action rejected Claims 1-4 under 35 U.S.C. §103(a) as being obvious over the Ausnit reference (U.S. Patent No. 6,131,369) in view of the Thomas reference. It appears that the Ausnit reference discloses a tear-away header (see the two perforations 54 on the lower portion of Figure 5, also see col. 3, lines 45-46) while the Thomas reference discloses separate portions of web material (first and second upstanding panels 36, 38) which are apparently separate from (but thermally fused to) the web of the sides of the bag and separate from the flanges of the zippers (see Figure 1). Moreover, there is nothing in the prior art to teach the combination of the two references.

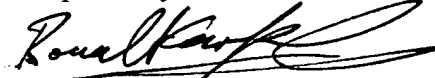
The Office Action rejected Claims 1-4 under 35 U.S.C. §103(a) as being obvious over the Thomas reference. The Thomas reference discloses separate portions of web material (first and

second upstanding panels 36, 38) which are apparently separate from (but thermally fused to) the web of the sides of the bag and separate from the flanges of the zippers (see Figure 1). It is respectfully submitted that this is not an obvious variation by way of "forming in one piece an article which has been formerly been formed in two pieces and put together" as asserted by the Office Action. This is a completely different structure.

It is therefore respectfully submitted that all of the rejections under 35 U.S.C. §§102, 103 have been overcome and that the presently pending claims are patentable over the cited references.

For all of the reasons above, it is respectfully submitted that all of the presently pending claims are in immediate condition for allowance. The Examiner is respectfully requested to withdraw the rejections of the claims, to allow the claims, and to pass this application to early issue.

Respectfully submitted,



Gerald Levy

Registration No. 24,419

Ronald E. Brown

Registration No. 32,200

Pitney, Hardin, Kipp & Szuch LLP
685 Third Avenue
New York, New York 10017
(212) 297-5800